

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-860V

Filed: October 16, 2015

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ANTONIO DEFELICE,

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UNPUBLISHED

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Petitioner,

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Special Master Hamilton-Fieldman

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v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Influenza (“Flu”) Vaccine; Bilateral Vision
Loss; Ruling Regarding Timing of Onset.

*

Respondent.

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Lawrence Joseph Disparti, Disparti Law Group, PA, Holiday, FL, for Petitioner.

Heather Lynn Pearlman, United States Department of Justice, Washington, DC, for Respondent.

RULING REGARDING FINDING OF FACT¹

On September 17, 2014, Antonio Defelice (“Petitioner”) filed a petition pursuant to the National Vaccine Injury Compensation Program.² Petitioner alleged that, as a result of receiving an influenza (“flu”) vaccination on October 1, 2012, he suffered from permanent bilateral vision loss.

During a status conference held on July 22, 2015, the undersigned observed that the parties’ experts disagree about the timing of onset of Petitioner’s vision loss, and determined that a date of onset should be established before the case proceeds to an assessment of causation. See

¹ Because this ruling contains a reasoned explanation for the action in this case, the undersigned intends to post this order on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 and note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter Vaccine Act or the Act). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

Order, July 23, 2015, at 1. Among other things, the undersigned directed the parties to brief the onset issue. Id. at 1-2. Petitioner filed his onset brief on October 6, 2015; Respondent filed her onset brief on October 14, 2015. This case is now ripe for a factual finding regarding the timing of onset of Petitioner's bilateral vision loss.

For the reasons set forth in Respondent's October 14, 2015 brief, the undersigned now finds, by a preponderance of the evidence, that Petitioner's symptoms first occurred no later than October 3, 2012.

The Special Master hereby enters this finding of fact. The Special Master makes no conclusion as to the significance of this in the context of Petitioner's claim.

IT IS SO ORDERED.

s/Lisa D. Hamilton-Fieldman
Lisa D. Hamilton-Fieldman
Special Master